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Mitchell Lazarus
Tel: 202/857-6466
Fax: 202/857-6395
lazarusm@arentfox.com
http://www.arentfox.com

September 10, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D.C. 20554

**Re: Rules and Policies for Local Multipoint Distribution Service
and for Fixed Satellite Services, CC Docket No. 92-297**


Dear Mr. Caton:

On behalf of Sierra Digital Communications, Inc. ("Sierra"), I am filing the original and one copy of this letter to accompany the attached written ex parte communication pursuant to Section 1.1206(a)(1) of the Commission's Rules.

Kindly date-stamp and return the extra copy of this letter provided.

If there are any questions about this filing, please call me directly at the number above.

Respectfully submitted,


Mitchell Lazarus

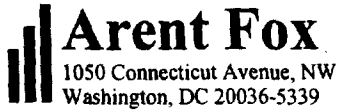
Enclosure

cc (w/encl):

John Clark, Deputy Chief
Private Wireless Division
Wireless Telecommunications Bureau

Hal Tenney
Sierra Digital Communications, Inc.

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Arent Fox

1050 Connecticut Avenue, NW
Washington, DC 20036-5339

Mitchell Lazarus
Tel: 202/857-6466
Fax: 202/857-6395
lazarusm@arentfox.com
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BY HAND DELIVERY

Mr. John Clark, Deputy Chief
Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street NW
Room 8002B
Washington DC 20554

**Re: Rules and Policies for Local Multipoint Distribution Service
and for Fixed Satellite Services, CC Docket No. 92-297**

Dear Mr. Clark:

I appreciate your taking the time to speak with me on the telephone yesterday.

As I indicated, I represent Sierra Digital Communications, Inc. (Sierra), the leading manufacturer of 31 GHz microwave equipment, in CC Docket No. 92-297, Local Multipoint Distribution Service (LMDS).

Background

In the proceeding's Fourth Notice (released July 22, 1996), the Commission first proposed to allocate all 300 MHz of the 31 GHz band to LMDS. Approximately 70% of the incumbent use was (and is) in city, county, and state communications systems, hospitals, schools, and traffic control and monitoring systems. Sierra showed that these uses are growing very rapidly, and along with several other parties asked the Commission to retain at least part of the band for private licensing. The Second Report and Order (released March 13, 1997) rejected these requests and reallocated the band to LMDS. Although the Commission afforded protection to incumbent users, it dismissed all pending applications and barred the filing of new ones. As the enclosed filings show, this action will have a significant adverse impact on public safety, particularly in traffic control and monitoring.

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FCC Private Wireless Division
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Sierra filed a timely Petition for Partial Reconsideration, which is now pending. Sierra's petition supports allocating the middle 150 MHz of the band to LMDS, but urges the Commission to keep the two 75 MHz edges of the band for private use, including public safety applications.

31 GHz Allocation Issues

Ex parte discussions on Sierra's reconsideration petition have raised the issue of how the 31 GHz band should be regulated if it is not auctioned as part of LMDS. Some Commission staff members are understandably reluctant to have private users in the band offering subscription services over free spectrum in competition with providers that paid for their spectrum at auction.

Two options to resolve this problem have emerged. The one that Sierra prefers would simply prohibit the sale (or resale) of service for profit in the non-LMDS part of 31 GHz. In the alternative, however, the Commission could prevent unfair competition by reallocating this portion of the band to public safety. I seek your views and support concerning this latter option.

Materials Enclosed

Enclosed are the following documents, all of which are in the record of this proceeding:

- A list of present and planned 31 GHz user sites provided by Sunnyvale GDI, one of Sierra's value-added resellers (filed Aug. 12, 1996). This is the closest Sierra has to a list of 31 GHz users, but it includes only Sunnyvale's customers. We do not have reliable lists of users serviced by other resellers. Although this information is a year old, no licenses have been granted during the intervening period, as I indicated above.
- Public-safety-related pleadings and letters filed by the following entities (filing dates shown in parentheses):
 - Parsons Transportation Group Inc.
(supporting Nevada Dept. of Transportation)
(June 2, 1997)

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- Sunnyvale GDI (May 15, 1997)
 - VideoLinx, Inc. (May 12, 1997)
 - Institute of Transportation Engineers (Sept. 9, 1996)
 - Nevada Dept. of Transportation (Sept. 5, 1996)
 - International Municipal Signal Association (Aug. 22, 1996)
 - City of Palm Springs, California (Aug. 15, 1996)
 - City of Topeka, Kansas (Aug. 13, 1996)
 - City of San Diego, California (Aug. 12, 1996)
 - City and County of Honolulu, Hawaii (Aug. 9, 1996)
 - City of Long Beach, California (Aug. 9, 1996)
 - State of California (Mobile Source Air Pollution Reduction Review Committee of the South Coast Air District) (Aug. 2, 1996).
- Sierra's Petition for Partial Reconsideration (filed May 5, 1997) and Reply to Oppositions to Petition for Partial Reconsideration (filed June 16, 1997). These pleadings outline and discuss the issues presently before the Commission.

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Conclusion

I am sending copies of this letter to the Commissioners and to several members of the Commission staff I know to be interested in the 31 GHz issues, and look forward to discussing the public safety aspects with you in more detail.

If there are any questions about this letter, please call me directly at the number above.

Respectfully submitted,


Mitchell Lazarus

Enclosure

cc (w/out encl):

Office of the Secretary (2 copies)
Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Jackie Chorney
Rudolfo M. Baca
Suzanne Toller
David R. Siddall
David Wye

Robert M. Gurss, Esquire
Counsel for Association of Public-Safety Communications
Officials-International, Inc. (APCO)

Hal Tenney
Sierra Digital Communications, Inc.